

AMENDED IN SENATE JULY 1, 2014
AMENDED IN SENATE JUNE 5, 2014
AMENDED IN ASSEMBLY MAY 1, 2014
AMENDED IN ASSEMBLY APRIL 7, 2014
AMENDED IN ASSEMBLY MARCH 25, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1442

Introduced by Assembly Member Gatto
(Coauthor: Assembly Member Gonzalez)
(Coauthor: Senator Lara)

January 6, 2014

An act to add Section 49073.6 to the Education Code, relating to pupil records.

LEGISLATIVE COUNSEL'S DIGEST

AB 1442, as amended, Gatto. Pupil records: social media.

Existing law requires school districts to establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education.

This bill would, notwithstanding that provision, require a school district, county office of education, or charter school that considers a program to gather or maintain in its records any ~~personal~~ information obtained from social media, as defined, of any pupil enrolled in the school district, county office of education, or charter school to first notify pupils and their parents or guardians about the proposed program, and to provide an opportunity for public comment at a regularly

scheduled public meeting before the adoption of the program. The bill would require a school district, county office of education, or charter school that adopts a program pursuant to these provisions to, among other things, gather and maintain only information that was made publicly accessible, as defined, provide a pupil with access to any ~~personal~~ information about the pupil obtained from social media, and ~~to destroy the personal~~ information gathered from social media and maintained in its records, as provided. If a school district, county office of education, or charter school contracts with a 3rd party to gather ~~personal~~ information from social media on an enrolled pupil, the bill would prohibit the use, sale, or sharing of the information by the 3rd party, and would provide additional restrictions on the destruction of the information by the 3rd party, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 49073.6 is added to the Education Code,
2 to read:
3 49073.6. (a) For purposes of this section, the following terms
4 have the following meanings:
5 (1) “Eligible pupil” means any pupil 18 years of age or older.
6 (2) “School purposes” means for purposes that (A) customarily
7 take place at the direction of a school, teacher, school district,
8 county office of education, or charter school, or (B) aid in the
9 administration of school activities, including, but not limited to,
10 instruction in the classroom or at home, administrative activities,
11 or collaboration between pupils, school personnel, and parents or
12 guardians.
13 (3) (A) “Social media” means an electronic service or account,
14 or electronic content, including, but not limited to, videos, still
15 photographs, blogs, video blogs, podcasts, instant and text
16 messages, email, online services or accounts, or Internet Web site
17 profiles or locations.
18 (B) “Social media” shall not include an electronic service or
19 account used exclusively for school purposes.
20 (4) (A) “Publicly accessible” means anything posted on social
21 media or any other Internet Web site that is accessible to the
22 general public.

1 (B) “Publicly accessible” shall not include anything posted on
2 social media or any other Internet Web site that is only accessible
3 to a restricted group of persons.

4 (b) Notwithstanding any other law or regulation, a school
5 district, county office of education, or charter school that considers
6 a program to gather or maintain in its records any ~~personal~~
7 information obtained from social media of any enrolled pupil shall
8 notify pupils and their parents or guardians about the proposed
9 program and provide an opportunity for public comment at a
10 regularly scheduled public meeting of the governing board of the
11 school district or county office of education, or governing body
12 of the charter school, as applicable, before the adoption of the
13 program. The notification required by this subdivision may be
14 provided as part of the notification required pursuant to Section
15 48980.

16 (c) Notwithstanding any other law or regulation, a school
17 district, county office of education, or charter school that adopts
18 a program pursuant to subdivision (b) shall do all of the following:

19 (1) Gather or maintain only information that was made publicly
20 accessible, which shall not include either of the following:

21 (A) Information that the school district, county office of
22 education, or charter school knows or has reason to believe was
23 reposted or otherwise made publicly accessible by another party
24 without the express consent of the original author.

25 (B) Any secondary information, including, but not limited to,
26 geolocation information, derived from content posted to social
27 media, unless that secondary information was intentionally made
28 publicly accessible or unless the school district, county office of
29 education, or charter school has obtained consent from an eligible
30 pupil or a parent or guardian.

31 (2) Provide a pupil with access to any ~~personal~~ information
32 about the pupil gathered or maintained by the school district,
33 county office of education, or charter school that was obtained
34 from social media, and an opportunity to correct or delete
35 ~~information that was gathered or maintained in violation of~~
36 ~~paragraph (1).~~ *such information.*

37 (3) (A) Destroy ~~personal~~ information gathered from social
38 media and maintained in its records within one year after a pupil
39 turns 18 years of age or within one year after the pupil is no longer

1 enrolled in the school district, county office of education, or charter
2 school, whichever occurs first.

3 (B) Notify each parent or guardian of a pupil subject to the
4 program that the pupil's ~~personal~~ information is being gathered
5 from social media and that any information subject to this section
6 maintained in the school district's, county office of education's,
7 or charter school's records with regard to the pupil shall be
8 destroyed in accordance with subparagraph (A). The notification
9 required by this subparagraph may be provided as part of the
10 notification required pursuant to Section 48980. The notification
11 shall include, but is not limited to, all of the following:

12 (i) An explanation of the process by which a pupil or a pupil's
13 parent or guardian may access the pupil's records for examination
14 of the ~~personal~~ information gathered or maintained pursuant to
15 this section.

16 (ii) An explanation of the process by which a pupil or a pupil's
17 parent or guardian may request the removal of ~~inaccurate personal~~
18 information or make corrections to ~~personal~~ information gathered
19 or maintained pursuant to this section.

20 (C) If the school district, county office of education, or charter
21 school contracts with a third party to gather ~~personal~~ information
22 from social media on an enrolled pupil, the contract shall do all of
23 the following:

24 (i) Prohibit the third party from using the information for its
25 own purposes.

26 (ii) Prohibit the third party from selling or sharing the
27 information with any person or entity other than the school district,
28 county office of education, or charter school.

29 (iii) Require the third party to destroy the information
30 immediately upon satisfying the terms of the contract, within one
31 year after a pupil turns 18 years of age, or within one year after
32 the pupil is no longer enrolled in the school district, county office
33 of education, or charter school, whichever occurs first.